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China, Peoples Republic of

Planting Seeds

Administrative Measures for Grass Seeds

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Report Highlights:

This is an UNOFFICIAL translation of China's Ministry of Agriculture (MOA) Decree No. 56 of 2006 and should be used as a guide only. Exporter/investors should carefully discuss regulations and their application with Chinese partners to ensure that their interpretation of the regulation is accurate. China did not notify the World Trade Organization (WTO) on this decree; subsequently, FAS Beijing contacted China's SPS Office to request compliance with WTO/SPS notification obligations. Based on FAS Beijing's preliminary analysis of the text, it appears the decree will not impact seed trade significantly.

Includes PSD Changes: No
Includes Trade Matrix: No
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Summary

On January 12, 2006, China's Ministry of Agriculture (MOA) published Decree 56, the Administrative Measures for Grass Seeds. According to MOA, the measures are based on the *Seed Law of The People's Republic of China* and the *Grassland Law of the People's Republic of China*. MOA said these measures were not notified to World Trade Organization (WTO), and explained that other than expanded coverage, detailed rules and procedures for production, marketing and trade, the measures would not restrict trade of grass seeds. Import policies on grass seeds remain unchanged. Further, trade contacts report these measures do not change the existing import and marketing policy. As a result, FAS Beijing believes the new decree will not restrict trade.

Nonetheless, FAS Beijing contacted the SPS office under China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and requested that they comply with the WTO SPS notification requirements by notifying this decree. The measures will take effect on March 1, 2006, and FAS Beijing will monitor any trade impact of the decree.

A full text of this regulation in Chinese is posted on MOA web site
http://www.agri.gov.cn/blgg/t20060126_544479.htm.

BEGIN TRANSLATION

Decree No. 56 of the Ministry of Agriculture of the People's Republic of China

The Administrative Measures for Grass Seeds, adopted at the 2nd executive meeting of the Ministry of Agriculture on January 5, 2006, is hereby promulgated and shall go into effect on March 1, 2006. The *Interim Measures for the Administration of Forage Seeds* (Trial) promulgated by the Ministry of Agriculture, Animal Husbandry and Fishery on October 25th, 1984 shall be repealed on the same date.

Minister Du Qinglin
January 12, 2006

Administrative Measures for Grass Seeds

Chapter 1 General Provisions

Article 1 These Measures are enacted to regulate and strengthen the administration of grass seeds, improve the quality of grass seeds, safeguard legitimate rights and interests of grass variety selectors and breeders, producers, traders and users of grass seeds as well as promoting the sound development of grass industry in accordance with the *Seed Law of The People's Republic of China* and the *Grassland Law of the People's Republic of China*.

Article 2 These Measures shall be applicable to such activities as the selection and breeding of grass varieties, the production, business operation, use and administration of grass seeds, within the territory of the People's Republic of China.

Article 3 The grass seeds referred in these measures are the planting materials or propagation materials, such as grains, fruits, roots, stems, seedlings, sprouts and leaves of herbs and feeding shrubs, which are used for animal feeding, ecological construction, forestation, landscaping and other purposes.

Article 4 The Ministry of Agriculture shall be in charge of the administration of grass seeds

throughout the country.

The administrative departments for grasslands under the local people's government at or above the county level shall be in charge of the administration of grass seeds within their respective administrative regions.

Article 5 The administrative departments for grasslands and their personnel shall be forbidden to engage in the production and marketing activities of grass seeds; institutions engaged in the production and marketing of grass seeds shall be forbidden to engage in the administrative management of grass seeds. The administrative departments for grass seeds and entities engaged in the production and marketing of grass seeds must be segregated from each other in respect of respective personnel and financial affairs.

Article 6 The administrative departments for grasslands under the local people's governments at or above the county level shall strengthen their efforts to protect grass germplasm resources, select and breed, produce, replace and popularize improved varieties, encourage the combination of variety breeding with production and marketing, and reward the units and individuals that achieve outstanding success in the protection of grass germplasm resources and in the selection and breeding as well as in the popularization of improved varieties.

Chapter 2 Protection of Grass Germplasm Resources

Article 7 The State shall protect grass germplasm resources, and no unit or individual shall seize or impair grass germplasm resources.

Article 8 The Ministry of Agriculture shall, according to the actual needs, prepare the catalog of grass germplasm resources, which are selected under the special State protection.

Article 9 The Ministry of Agriculture shall organize relevant units to collect, sort out, verify, register, store, exchange and utilize grass germplasm resources, and establish a bank of grass germplasm resources as well as regularly issue the catalog of available grass germplasm resources.

Article 10 The Ministry of Agriculture and the administrative departments for grasslands of provincial people's governments shall, according to the actual needs, establish national and local grass germplasm resources protection zones or grass germplasm resources reserves.

Article 11 It shall be forbidden to collect or excavate natural grass germplasm resources under the State's protection plan. Where in the case of special circumstances, such as for the purpose of scientific research, such collection or excavation shall be verified by the administrative departments for grasslands of the provincial people's governments and be submitted to the Ministry of Agriculture for examination and approval.

Article 12 Grass germplasm resources imported from abroad are subject to quarantine inspections according to law.

Grass seeds first introduced from abroad shall be segregated for experimental planting and is subject to risk assessment, and shall not be used until confirmed safe.

Article 13 The State shall have the sovereignty over grass germplasm resources. Any unit or individual that wishes to provide grass germplasm resources abroad shall apply to competent administrative departments for grasslands of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government

where the said unit or individual resides for verification, and to the Ministry of Agriculture for examination and approval.

Chapter 3 Breeding, Examination and Approval of Grass Varieties

Article 14 The State shall encourage the unit and individual to engage in the breeding of grass varieties, encourage the cooperation between scientific research units and enterprises in breeding of grass varieties and encourage the investment of enterprises in breeding of grass varieties.

Article 15 The State shall apply a system for examination and approval of new grass varieties. New grass varieties without passing through examination and approval shall not be advertised, traded or popularized.

Article 16 The Ministry of Agriculture shall set up a national grass variety examination and approval committee to be responsible for the administration of new grass varieties.

The national grass variety examination and approval committee shall be composed of professionals holding senior professional titles or appointed to division director level positions or above, and engaged in the relevant scientific research, education, technology extension, administrative management and so on.

The Ministry of Agriculture shall appoint the director, deputy directors and members of the national grass variety examination and approval committee.

Article 17 The approved new grass varieties shall be granted certificates by the national grass variety examination and approval committee, and announced to the public by the Ministry of Agriculture.

The examination and approval announcement shall cover such contents as names of the approved varieties, identification of the breeders as well as the regions to be adapted.

For new grass varieties unapproved in the examination, the national grass variety examination and approval committee shall notify the applicants in writing explaining reasons.

Article 18 Where foreigners, foreign enterprises or other foreign organizations that have no regular domiciles or business places in China apply for examination and approval of their grass varieties in China, they shall entrust Chinese institutes engaged in the scientific research, production or marketing of grass seeds with the status of legal persons to serve as their agents.

Chapter 4 Production of Grass Seeds

Article 19 A license system for the production of major grass seeds shall be applied.

Grass seed production license shall be issued after examination by the administrative departments for grasslands of the provincial people's governments, where the grass seed production units or individuals reside.

Article 20 Units or individuals that apply for grass seed production licenses shall meet the following qualification:

- 1) Equipped with quarantining and breeding facilities for propagating grass seeds;

2) Equipped with grass seed production sites free from those subject to State quarantine inspections;

3) Equipped with facilities and funds measuring up to production and inspection of grass seed production;

4) Equipped with relevant professionals specialized in grass seed production and inspection; and

5) Other qualifications as stipulated in laws, rules and regulations.

Article 21 The following materials shall be submitted for application of grass seed production license:

1) An application form for a grass seed production license;

2) Qualification certificates for professionals specialized in production and inspection;

3) A registered capital certification;

4) Lists, pictures and ownership certificates or legitimate use right certificates of inspection facilities, instruments and equipment;

5) An introduction to grass seed seasoning yards or pictures and ownership certificates or legitimate use right certificates of grass seed drying facilities;

6) Pictures and ownership certificates or legitimate use right certificates of grass seed storage facilities;

7) Quarantine certificates of and introductions to grass seeds production sites;

8) Grass seed production quality assurance measures; and

9) An introductions to variety characteristics

In the case of a granted variety's right, a written consent certificate from the owners of such variety or variety transfer contract shall also be submitted; whereas when grass seeds are genetically modified, the agricultural GMO safety certificates shall be submitted.

Article 22 The examination and approval authorities shall, within 20 days from the acceptance of the application, complete the examination work and decide on whether or not to issue production license. If the application is not approved, the applicant shall be notified in writing and given reasons thereof.

Where necessary, the examination and approval authorities may conduct a field study of production sites, facilities for drying, storage and inspection, as well as instruments and equipment.

Article 23 The Ministry of Agriculture shall uniformly stipulate the format of grass seed production license.

The production license shall remain valid for three years and be renewable. The license holder shall, three months prior to the expiration of the license, follow the original application procedures to apply for a new grass seed production license by presentation of the old

license.

If any changes are to be made in the valid period of the license, the license holder shall apply to the original examination and approval authority and submit relevant materials to the authority for these changes.

Article 24 Any units or individuals shall be forbidden to engage in commercial production of major grass seeds without a grass seed production license.

It is forbidden to forge, alter, sell and purchase as well as lease grass seed production license.

Article 25 Grass seed production units and individuals shall produce grass seeds in accordance with the *Technical Rules and Regulations on Production of Grass Seeds*, and keep files of grass seed production, clearly indicate production sites, environments of the plots, preceding crops, source and quality of parent seeds, responsible technicians, inspections conducted in the fields, meteorological notes of the origins, distribution of seeds, etc. Production files shall be maintained for two years after the production of grass seeds.

Chapter 5 Marketing of Grass Seeds

Article 26 A marketing license system for the marketing of grass seeds shall be applied. Only after a marketing license has been obtained, shall any unit or individual engaged in the marketing of grass seeds apply to the administrative department for industry and commerce for a business license or for modifying a business license, with the exception of such grass seeds, which do not require marketing license in accordance with the *Seed Law*.

The application for a marketing license for major hybrid grass seeds, parent seeds thereof and breeding seeds of conventional varieties shall be subject to the examination of the administrative department for grasslands under the county people's governments, where the applicants reside, and the license shall be issued after examination of the administrative departments for grassland of the provincial people's government.

The application for a grass seed marketing license by an unit or individual engaged in the import and export of grass seeds shall be subject to the examination of competent administrative department for grasslands of the provincial people's government, where the unit or individual dealing resides, and the license shall be issued after examination by the Ministry of Agriculture.

The license for marketing of other varieties of grass seeds shall be issued after examination by the administrative department for grasslands under people's government of the county, where unit or individual reside.

Article 27 Unit or individual that apply for grass seed marketing licenses shall meet the following qualifications:

- 1) Availability of funds commensurate with grass seed varieties and quantities traded in and the capability of bearing civil liabilities independently;
- 2) Possession of personnel with expertise in correct identification of the grass seeds traded in and quality examination of grass seeds and grass seed storage;
- 3) Availability of business sites appropriate to the grass seed varieties and quantities traded in, and storage facilities; and

- 4) Meeting the other requirements laid down in laws, rules and regulations.

Article 28 The following materials shall be submitted for the application of a grass seed marketing license:

- 1) An application form for grass seed marketing license;
- 2) Pictures and ownership certificates or legitimate use right certificates of business sites; and
- 3) Lists, pictures, ownership certificates or legitimate use right certificates of grass seed storage facilities.

Article 29 The examination and approval authority shall, within 20 days from the acceptance of the application, complete the examination work within 20 days, and decide on whether or not to issue the marketing license. If the application is not approved, the applicant shall be notified in writing and given reasons thereof.

Where necessary, the examination and approval authority shall conduct a field study of production sites, facilities for processing, packing and storing, as well as instruments and equipment for the inspection of grass seed quality.

Article 30 The format of the grass seed-marketing license shall be uniformly stipulated by the Ministry of Agriculture.

The grass seed-marketing license shall remain valid for 5 years and is renewable. The license holder shall, three months prior to the expiration of the license, follow the original application procedures to renew the license by presentation of the old license.

If any changes are to be made in the valid period of the license, the license holder shall apply to the original examination and approval authority and submit relevant materials to the authority for these changes.

Article 31 Any unit or individual shall be forbidden to engage in the marketing of major grass seeds without grass seed marketing license.

It is forbidden to forge, alter, sell and purchase as well as lease grass seed marketing licenses.

Article 32 Grass seed trader shall be responsible for the quality of the traded grass seeds, comply with relevant laws and regulations and provide grass seed users with consulting services in respect of properties of seeds, agronomic techniques and so on.

Article 33 Grass seeds for sale shall be packed. When the grass seeds are sub-packed, the sub-packing unit, original names and of places of origin of grass seeds or grass variety shall be clearly indicated.

Article 34 The grass seeds for sale shall be labeled. The label shall clearly indicate such items as the grass seed family, variety name, lot number, place of origin, production date, name of production unit and quality index.

The content of the label shall be in conformity with the grass seeds for sale.

For the sale of imported grass seeds, a label in Chinese is needed.

Article 35 Grass seed traders shall keep seed marketing files, which shall contain brief information about the grass seed source, processing, storage, transportation, quality test, together with the names of the responsible persons, and the destinations of the grass seeds etc.

The marketing files shall be kept for 2 years after grass seeds are sold.

Article 36 The administrative department for grasslands at or above the county level shall strengthen the supervision and administration on local grass seed advertisements, contents of which shall comply with the relevant laws and regulations, and the descriptions of main properties which shall be in conformity with examination and approval announcements. Misleading and deceptive advertisements are prohibited.

Chapter 6 Quality of Grass Seeds

Article 37 The Ministry of Agriculture shall be responsible for the formulation of the nationwide supervision and random inspection plans for grass seed quality, or the quality of a certain grade. The administrative departments for grasslands under the local people's governments at or above the county level shall, according to the national plan and local actual situations, formulate the relevant supervision and random inspection plan.

Any and all costs incurred in the supervision and random inspection shall incorporate in the budget of the administrative department for grasslands, and shall not be charged from enterprises subject to random inspection.

Within six months since the administrative department for grasslands conducts the supervision and random inspection, the administrative departments for grasslands at the same level or a lower level shall be forbidden to repeat the supervision and random inspection for the identical grass seeds of the enterprise.

Article 38 The administrative department for grasslands may entrust a grass seed quality inspection agency to conduct inspection of grass seed quality.

The quality inspection agency shall have the necessary testing facilities and capabilities, and shall be examined and approved by the relevant department of the people's government at or above the provincial level.

Article 39 The inspectors of the grass seed quality inspection agency shall meet the following qualifications:

- 1) Equivalent to college degree or above, and or personnel with intermediate or above technical titles;
- 2) Engaged in the technical work of grass seed inspection for three years at least; and
- 3) Passed the examination conducted by the administrative departments for grasslands of the people's government at or above the provincial level.

Article 40 Grass seeds subject to supervision and random inspection shall undergo quality inspection in accordance with the *National Rules for Forage Seed Testing*. In the case of absence of specific provisions in the *National Rules for Forage Seed Testing*, the quality inspection shall be conducted in accordance with the *International Rules for Seed Testing*.

Article 41 The *Grass Seed Quality Inspection Report* shall clearly state such relevant contents as names of grass seeds, sampling date, quantity, seed lot number and inspection results.

The *Grass Seed Quality Inspection Report* shall be filled in by a certified grass seed inspector, signed and issued by the person responsible for the inspection agency, and stamped with the special seal for inspection of the inspection agency.

Article 42 In the case of discrepancy about inspection result, unit or individual being inspected shall, within 15 days from the receipt of the inspection result notice, apply in writing to the administrative departments for grasslands which have assigned tasks, for re-inspection. Failure to do so shall be deemed to have accepted the inspection results.

The administrative department for grasslands shall examine the re-inspection application, and shall timely make arrangement for the re-inspection which, if necessary.

Article 43 Production and marketing of fake and inferior grass seeds shall be prohibited.

The following shall be regarded fake grass seeds:

- 1) Non-grass seeds stuff labeled and marketed as grass seeds, and the grass seeds of one variety labeled and marketed as another variety; and
- 2) The family, variety or origin of grass seeds is not in agreement with what is stated in the label.

The following shall be regarded as inferior grass seeds:

- 1) The quality is lower than the seed quality standards stipulated by the State;
- 2) The quality is lower than the index indicated in the label;
- 3) The deteriorated grass seeds not suitable to be used as seeds;
- 4) The proportion of weed grass seeds exceeds the specified level; and
- 5) The grass seeds containing materials subject to quarantine by the State.

Article 44 Unit or individual engaged in the production and marketing of grass seeds shall, in accordance with relevant laws and regulations for plant quarantine, conduct quarantine inspections, prevent dangerous plant diseases, insects/pests, weeds and other harmful organisms from spreading.

Unit or individual are prohibited to conduct experiments against diseases and insects/pests at grass seed production bases.

Chapter 7 Import and Export Administration

Article 45 Unit engaged in import and/or export of grass seeds shall, in addition to grass seed marketing license, also obtain qualification certificate for import and export trade of grass seeds pursuant to relevant provisions of State foreign trade laws and regulations.

Article 46 The examination and approval system for import and export of grass seeds shall

be applied.

Unit or individual applying for import and/or export grass seeds shall complete *Examination and Approval Forms for Import or Export of Grass Seeds*, and shall not engage in import or export business until the said forms are firstly verified by the administrative department for grasslands of the provincial people's government, and then submitted to and approved by the Ministry of Agriculture.

Each *Examination and Approval Form for Import or Export of Grass Seeds* shall remain valid for 3 months.

Article 47 The grass seeds to be imported or exported shall meet the following requirements:

- 1) The quality of grass seeds meets the State standards;
- 2) Relevant certifications concerning names, quantities and places of origin of grass seeds; and
- 3) Grass seeds are not those prohibited by the State to be imported or exported.

Unit or individual applying for the import or export of grass seeds shall provide the following materials:

- 1) The grass seed marketing license, the duplicate of the business license and qualification certificate for import or export trade;
- 2) Relevant certificates concerning names, quantities and places of origin of grass seeds; and
- 3) The examination certificate and registered catalog issued by the authority of the country of origins for the grass seeds to be imported;

Article 48 The above Article 45 does not apply to grass seeds imported for producing hybrid seeds for re-export, but a signed contract is requested. The imported seeds shall only be used for the production of hybrid seeds, and the products shall not be sold in domestic market.

Chapter 8 Supplementary Provisions

Article 49 The unit or individual that is in violation of these Measures shall be punished in accordance with relevant provisions of the *Seed Law of The People's Republic of China* and the *Grassland Law of the People's Republic of China*.

Article 50 The administration of breeding, experiment, popularization, production, processing, import and export of generically modified grass varieties shall comply with the *Regulations for Administration of Safety of Agricultural GMOs*.

Article 51 The unit or individual that collects, excavates, provides abroad or introduces from abroad grass germplasm resources which are indicated in the list of wild plants under State protection plan shall, in addition to handling examination and approval formalities subject to these Measures, also go through relevant examination and approval procedures in accordance with the *Regulations on Wild Plant Protection of the People's Republic of China* and the *Measures for Protection of Wild Agricultural Plants*.

Article 52 The major grass seeds covered by these measures refer to Lucerne, astragalus adsurgens pall, pea tree, saintfoin, trefolium, hedysarum, stylo grass, pearl millet, elymus sibiricus, wheat grass, fodder grass, sheep fescue, cocksfoot, puccinellia distans, lyme grass, lespedeza bicolor, crown vetch, awnless brome, groats, triticale, perennial ryegrass, sudan grass, sweet clover, Kentucky blue grass and other 2 to 3 varieties of grass seeds as designated by the administrative department for grasslands of the People's Governments of provinces, autonomous regions or municipalities.

The measures do not cover such field crops such as feed corn, fodder sorghum and so on.

Article 53 These Measures shall go into effect on March 1, 2006. The *Interim Measures for the Administration of Forage Seeds* (for Trial Implementation) promulgated by the Ministry of Agriculture, Animal Husbandry and Fishery on October 25, 1984 shall be repealed on the same date.

End of Translation